IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 21ST AUGUST 2007 / 30TH SRAVANA 1929

Bail Appl..No. 5081 of 2007()

CRIME NO.277/2007 OF PATHANAPURAM POLICE STATION

PETITIONER : ACCUSED:

V.SATHYARAJAN, AGED 48, S/O.VASU,
KONKALIL VEEDU, VELLAMTHETTI, PADOM,
KOLLAM DISTRICT.

BY ADV. SRI.MANOJ RAMASWAMY

RESPONDENTS: COMPLAINANT:
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1. STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. SUB INSPECTOR OF POLICE,
PATHANAPURAM POLICE STATION, KOLLAM DISTRICT.

BY PUBLIC PROSECUTOR ADV.SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 21/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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B.A.No. 5081 of 2007

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Dated this the 21st day of August, 2007

ORDER

Application for anticipatory bail. The petitioner is the first accused. Altogether there are two accused persons. The 2nd accused is the son of the first accused/petitioner. The victims/injured are neighbours. They are related to the petitioner also it is submitted. There are three injured persons. One of them has suffered a grievous hurt. Offences alleged include the one under section 326 IPC. The crux of the allegations is that on account of animosity arising from a property dispute, the accused persons mounted an attack on the victims with dangerous weapons like chopper and bamboo stick. Grievous hurt/fracture was suffered by the wife of the de facto complainant. Crime has been registered. Investigation is in progress. The petitioner apprehends imminent arrest. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The accused persons were not really aggressors but only victims of aggression. A complaint was filed by them before the Police but Police in a biased and partisan manner has not registered the crime or taken any action. It is in these circumstances, prayed that anticipatory bail may be granted to the petitioner.

2. The learned Public Prosecutor opposes the application. There is absolutely no circumstance justifying invocation of the extraordinary equitable discretion under Section 438, submits the learned Public Prosecutor.

3. I find merit in the opposition by the learned Public Prosecutor. There are no features suggesting the need for invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This is a fit case where the petitioner must appear before the learned Magistrate or the Investigating Officer and seek regular bail in the ordinary and normal course.

4. In the result, this petition is dismissed. I may however, hasten to observe that if the petitioner appears before the Investigating Officer or the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE